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CHARLES ELMORE CRO
CLER

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1930.

No. 378.

STANDARD OIL COMPANY (INDIANA),
STANDARD OIL COMPANY (NEW JERSEY),
STANDARD DEVELOPMENT COMPANY,
THE TEXAS COMPANY,
GASOLINE PRODUCTS COMPANY, INC., *et al.*,
Appellants,

v.

UNITED STATES OF AMERICA,
Appellee.

STATEMENT OF APPELLANTS AS TO JURISDICTION ON APPEAL.

THE BALLOU PRESS NEW YORK

Supreme Court of the United States.

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v.	
UNITED STATES OF AMERICA, Appellee.	

STATEMENT AS TO JURISDICTION ON APPEAL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

Pursuant to Rule 12 of the Rules of the United States Supreme Court, the Appellants in the above entitled cause, present the following statement concerning the basis on which they contend that this Court has jurisdiction to review on appeal the decree below.

I.

Nature of case and rulings below.

This is a proceeding in equity by the United States of America to enjoin alleged violations of Sections 1 and 2 of the Act of July 2, 1890, c. 647, 26 Stat. 209, commonly known as the Sherman Anti-Trust Act (Petition, Tran., Part I,

pp. 1 *et seq.*; and Expediting Certificate, p. 508 *et seq.*; Opinion, Tran., Part V. p. 5). The petition was filed by the United States Attorney for the Northern District of Illinois, Eastern Division on June 25, 1924 (Tran., Part I, p. 1). Thereafter the Attorney General of the United States filed a certificate to the effect that the case was of general public importance (Tran., Part I, p. 508), and the cause was thereupon expedited pursuant to Section 28 of Title 15 of U. S. C. A.* and assigned for hearing before three of the Circuit Judges of the Seventh Circuit Court of Appeals, to-wit: Judges Evans, Page and Anderson. Thereafter, a supplemental petition was filed. The Court so constituted, on motion of the petitioner, United States of America, (Tran., Part I, p. 510), referred the cause to Honorable Charles Martindale of Indianapolis as Special Master (Tran., Part I, p. 513). After a full hearing upon the merits, the Master filed his report on December 7, 1927, in which he found that the equities were with the defendants, and that the petition and supplemental petition should be dismissed for want of equity (Trans., Part I, pp. 568, 951). The case was thereafter heard by the District Court on exceptions filed by the petitioner to the Master's report (Tran., Part I, p. 952). On June 11, 1929, the majority of the Court, consisting of Judges Evans and Page, rendered their opinion, reported in 33 F. (2d) 617. (Trans., Part V, pp. 5-34), in which they held that the petitioner was entitled to a decree as to certain of the issues in the cause. Judge Anderson, the third Judge of the Expedition Court, dissented, holding that the Master's report should be approved and a decree entered dismissing the bill. The decree (Tran., Part V, p. 173) dismissed the petition as to the defendants, Joseph H. Adams and M. W. Kellogg Company, but was otherwise in favor of the petitioner. It is from this final decree that this appeal is taken.

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* Also, Act of February 11, 1903, c. 544, 32 Stat. 823, as amended June 25, 1910, c. 428, 36 Stat. 854, and further amended March 3, 1911, c. 231, 36 Stat. 1167.

II.

Dates of decree and of application for leave to appeal.

The decree sought to be reviewed on this appeal is a final decree which was entered in the Office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, on January 20, 1930 (Tran., Part V, p. 35). The application for leave to appeal from said decree was presented by the Appellants herein to the District Court on March 10, 1930 (Tran., Part V, p. 38). Prior to this date all the defendants had been duly served with summons and severance, (Tran., Part V, pp. 97 to 172), and on March 10, 1930 (which was less than sixty days from the entry of the decree), the Court entered an order allowing the appeal as to all defendants then joining in the application (Tran., Part V, p. 173). Thereafter, on March 27, 1930, an order was duly entered by said Court, severing the proceedings as to all defendants who had not by that date joined in the appeal (Tran., Part V, p. 185). This appeal is taken by all the defendants not severed. The required citation was duly issued and served, (Tran., Part V, p. 206) and the praecipe (Tran., Part V, p. 193), having been filed with the Clerk of the District Court by the Appellants, together with proof of service of a copy of same on the Appellee, and the transcript of record having been thereupon settled by the District Court upon due notice, and with the approval of counsel for all parties, the Clerk of that Court transmitted to this Court such transcript.

III.

Statutory provisions sustaining jurisdiction.

Section 345 of Title 28, United States Code Annotated,* reads as follows:

> "APPELLATE JURISDICTION FROM DECREES OF UNITED STATES DISTRICT COURTS. A direct review by the Supreme Court of an interlocutory or final judgment or decree of a district court may be had where it is so provided in the following sections and not otherwise:
>
> (1) Section 29 of Title 15."

* * * * * * * *

Section 28 of Title 15, United States Code Annotated, reads in part as follows:

> "SUITS AGAINST MONOPOLIES EXPEDITED. In any suit in equity brought in any district court of the United States under sections 1 to 7, inclusive,† or section 15 of this chapter or any other statutory provisions having a like purpose enacted after February 11, 1903, or that may be enacted wherein the United States is complainant, the Attorney General may file with the clerk of such court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such clerk to each of the circuit judges of the circuit in which the case is pending. * * *"

Section 29 of Title 15, United States Code Annotated, reads as follows:

> "APPEALS TO SUPREME COURT. In every suit in equity brought in any district court of the United States under any of the laws mentioned in the preceding section, wherein the United States is complainant, an appeal

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* Also Judicial Code, § 238, amended.

† Sherman Act, c. 647, 26 Stat. 209; Secs. 1-7 of Title 15, U. S. C. A.

from the final decree of the district court will lie only to the Supreme Court and must be taken within sixty days from the entry thereof. (Feb. 11, 1903, c. 544, Sec. 2, 32 Stat. 823; Mar. 3, 1911, c. 231, Sec. 291, 36 Stat. 1167.)

IV.

Cases believed to sustain jurisdiction.

The following decisions of this Court sustain its jurisdiction to review the decree below.

U. S. v. *Coffee Exchange*, 263 U. S. 611;
Terminal R. R. Assn. v. *U. S.*, 266 U. S. 17.

See also opinion of this Court in
U. S. v. *California Canneries*, 279 U. S. 553.

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